

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LAURA RIVERA-CORNISH

Plaintiff,

v.

NORRIS SQUARE UNITED PRESBYTERIAN
CONGREGATION, *et. al.*,

Defendant.

Civil Action

No. 07-3678

MEMORANDUM AND O R D E R

Before the court is a motion for entry of default filed by plaintiff, proceeding *pro se*. Docket # 3. Plaintiff's complaint was originally filed in the United States District Court for the District of Puerto Rico, Civil Action No. 07-1672 (GAG), and was transferred to this court pursuant to 28 U.S.C. § 1404. Plaintiff previously filed affidavits confirming that, by certified mail, she sought to deliver copies of her complaint and summons to defendants. *See* Civil Action No. 07-1672 (GAG) Docket # 8. Regardless of whether the delivery was successful, plaintiff's efforts do not constitute proper service and, for reasons explained below, the court must deny plaintiff's request.

As Judge Robreno has explained:

In the federal courts, original process may be served under either the law of the state in which the district court sits or under the Federal Rules of Civil Procedure. *See* Fed.R.Civ.P. 4(e)(1). Except where a waiver has been obtained, the Federal Rules of Civil Procedure do not provide for service of original process by mail, including certified mail. *See* Fed.R.Civ.P. 4(e). Similarly, the Pennsylvania Rules of Civil Procedure do not authorize service of original process within Pennsylvania by mail, including certified mail.

Staudte v. Abrahams, 172 F.R.D. 155, 156 (E.D. Pa. 1997). The Rules of Civil Procedure for the

Commonwealth of Puerto Rico allow for service by certified mail “when the person to be served is outside of Puerto Rico,” but, in such circumstances, require that “the summons shall be published only once in a daily newspaper of general circulation in Puerto Rico” and that “within the ten (10) days following the publication of the summons, the defendant shall be sent a copy of the summons and of the complaint filed, by certified mail, with acknowledgment of receipt.” P.R. R. Civ. P. 4.5(a).

In this case, plaintiff has not submitted evidence that defendants received the complaint or summons that she mailed. There is also no indication that the summons was published in a daily newspaper in Puerto Rico. Thus, plaintiff’s attempt at service was invalid in the jurisdiction where she filed the complaint, and also in the jurisdiction of this court. It is therefore proper to dismiss plaintiff’s motion without prejudice. This order will allow plaintiff to serve her complaint in accordance with the rules of this jurisdiction, which include the Federal Rules of Civil Procedure and incorporate the Pennsylvania Rules of Civil Procedure. If defendant fails to respond to a complaint that is properly served, this order will not prevent plaintiff from resubmitting a motion for entry of default in accordance with Rule 55(a) of the Federal Rules of Civil Procedure.

ACCORDINGLY, this 4th day of October, it is ORDERED that plaintiff’s Motion for Entry of Default is DISMISSED AS MOOT without prejudice to resubmission of a request for default entry if defendant fails to properly respond to a duly served complaint and summons.

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.